

REFERENCE TITLE: gray water use; incentives

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2518

Introduced by

Representatives Gray C, Boone, Chase, Pierce, Sinema, Smith: Allen J,
Anderson, Biggs, Gorman, Groe, Murphy, Nichols, Paton, Pearce, Quelland,
Reagan, Rosati, Stump, Yarbrough

AN ACT

AMENDING SECTIONS 45-402, 45-576, 49-201 AND 49-243, ARIZONA REVISED STATUTES; AMENDING TITLE 49, CHAPTER 2, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 49-245.03; AMENDING TITLE 49, CHAPTER 2, ARTICLE 10, ARIZONA REVISED STATUTES, BY ADDING SECTION 49-362; AMENDING SECTION 49-701, ARIZONA REVISED STATUTES; RELATING TO GRAY WATER.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 45-402, Arizona Revised Statutes, is amended to
3 read:

4 45-402. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Accounting period" means the calendar year, except such other
7 twelve-month period as may be otherwise agreed upon by the director and the
8 owner of a farm or a district on behalf of its landowners.

9 2. "Active management area" means a geographical area which has been
10 designated pursuant to article 2 of this chapter as requiring active
11 management of groundwater or, in the case of the Santa Cruz active management
12 area, active management of any water, other than stored water, withdrawn from
13 a well.

14 3. "Animal industry use" means the production, growing and feeding of
15 livestock, range livestock or poultry, as such terms are defined in section
16 3-1201. Animal industry use is included in the term and general treatment of
17 industry in this chapter, unless specifically provided otherwise.

18 4. "City" or "town" means a city or town incorporated or chartered
19 under the constitution and laws of this state.

20 5. "Conservation district" means a multi-county water conservation
21 district established under title 48, chapter 22.

22 6. "Convey" means to transfer the ownership of a grandfathered right
23 from one person to another.

24 7. "Date of the designation of the active management area" means:

25 (a) With respect to an initial active management area, June 12, 1980.

26 (b) With respect to a subsequent active management area, the date on
27 which the director's order designating the active management area becomes
28 effective as provided in section 45-414 or the date on which the final
29 results of an election approving the establishment of the active management
30 area pursuant to section 45-415 are certified by the board of supervisors of
31 the county or counties in which the active management area is located.

32 8. "Exempt well" means a well having a pump with a maximum capacity of
33 not more than thirty-five gallons per minute which is used to withdraw
34 groundwater pursuant to section 45-454.

35 9. "Expanded animal industry use" means increased water use by an
36 animal industrial enterprise on the land in use by the enterprise on June 12,
37 1980 or on immediately adjoining land, excluding irrigation uses.

38 10. "Farm" means an area of irrigated land which is under the same
39 ownership, which is served by a water distribution system common to the
40 irrigated land and to which can be applied common conservation, water
41 measurement and water accounting procedures.

42 11. "Farm unit" means:

43 (a) With respect to areas outside an active management area and with
44 respect to an active management area other than the Santa Cruz
45 active management area, one or more farms which are irrigated with

groundwater and which are contiguous or in proximity to each other with similar soil conditions, crops and cropping patterns.

(b) With respect to the Santa Cruz active management area, one or more farms which are irrigated with water, other than stored water, withdrawn from a well and which are contiguous or in proximity to each other with similar soil conditions, crops and cropping patterns.

12. "Grandfathered right" means a right to withdraw and use groundwater pursuant to article 5 of this chapter based on the fact of lawful withdrawals and use of groundwater prior to the date of the designation of an active management area.

13. "GRAY WATER" MEANS WASTEWATER THAT HAS BEEN COLLECTED SEPARATELY FROM A SEWAGE FLOW THAT ORIGINATES FROM A CLOTHES WASHER OR A BATHROOM TUB, SHOWER OR SINK BUT THAT DOES NOT INCLUDE WASTEWATER FROM A KITCHEN SINK, DISHWASHER OR TOILET. GRAY WATER INCLUDES RAINWATER COLLECTED FROM GUTTERS.

~~13.~~ 14. "Groundwater basin" means an area which, as nearly as known facts permit as determined by the director pursuant to this chapter, may be designated so as to enclose a relatively hydrologically distinct body or related bodies of groundwater, which shall be described horizontally by surface description.

~~14.~~ 15. "Groundwater replenishment district" or "replenishment district" means a district that is established pursuant to title 48, chapter 27.

~~15.~~ 16. "Groundwater withdrawal permit" means a permit issued by the director pursuant to article 7 of this chapter.

~~16.~~ 17. "Initial active management area" means the Phoenix, Prescott or Pinal active management area established by section 45-411, the Tucson active management area established by section 45-411 and modified by section 45-411.02 and the Santa Cruz active management area established by section 45-411.03.

~~17.~~ 18. "Integrated farming operation" means:

(a) With respect to land within an irrigation non-expansion area, more than ten acres of land that are contiguous or in close proximity, that may be irrigated pursuant to section 45-437, that are not under the same ownership and that are farmed as a single farming operation.

(b) With respect to land within an active management area, two or more farms that are contiguous or in close proximity, that collectively have more than ten irrigation acres and that are farmed as a single farming operation.

~~18.~~ 19. "Irrigate" means to apply water to two or more acres of land to produce plants or parts of plants for sale or human consumption, or for use as feed for livestock, range livestock or poultry, as such terms are defined in section 3-1201.

~~19.~~ 20. "Irrigation acre" means an acre of land, as determined in section 45-465, subsection B, to which an irrigation grandfathered right is appurtenant.

~~20.~~ 21. "Irrigation district" means a political subdivision, however designated, established pursuant to title 48, chapter 17 or 19.

~~21.~~ 22. "Irrigation grandfathered right" means a grandfathered right determined pursuant to section 45-465.

~~22.~~ 23. "Irrigation non-expansion area" means a geographical area which has been designated pursuant to article 3 of this chapter as having insufficient groundwater to provide a reasonably safe supply for the irrigation of the cultivated lands at the current rate of withdrawal.

~~23.~~ 24. "Irrigation use" means:

(a) With respect to areas outside an active management area and with respect to an active management area other than the Santa Cruz active management area, the use of groundwater on two or more acres of land to produce plants or parts of plants for sale or human consumption, or for use as feed for livestock, range livestock or poultry, as such terms are defined in section 3-1201.

(b) With respect to the Santa Cruz active management area, the use of water, other than stored water, withdrawn from a well on two or more acres of land to produce plants or parts of plants for sale or human consumption, or for use as feed for livestock, range livestock or poultry, as such terms are defined in section 3-1201.

~~24.~~ 25. "Irrigation water duty" or "water duty" means the amount of water in acre-feet per acre that is reasonable to apply to irrigated land in a farm unit during the accounting period, as determined by the director pursuant to sections 45-564 through 45-568 or as prescribed in section 45-483.

~~25.~~ 26. "Member land" means real property that qualifies as a member land of a conservation district as provided by title 48, chapter 22.

~~26.~~ 27. "Member service area" means the service area of a city, town or private water company that qualifies as a member service area of a conservation district as provided by title 48, chapter 22.

~~27.~~ 28. "Non-irrigation grandfathered right" means a grandfathered right determined pursuant to section 45-463, 45-464, 45-469 or 45-472.

~~28.~~ 29. "Non-irrigation use" means:

(a) With respect to areas outside an active management area and with respect to an active management area other than the Santa Cruz active management area, a use of groundwater other than an irrigation use.

(b) With respect to the Santa Cruz active management area, a use of water, other than stored water, withdrawn from a well, other than an irrigation use.

~~29.~~ 30. "Person" means an individual, public or private corporation, company, partnership, firm, association, society, estate or trust, any other private organization or enterprise, the United States, any state, territory or country or a governmental entity, political subdivision or municipal corporation organized under or subject to the constitution and laws of this state.

1 ~~30-~~ 31. "Private water company" means:

2 (a) With respect to areas outside an active management area and with
3 respect to an active management area other than the Santa Cruz
4 active management area, any entity which distributes or sells groundwater,
5 except a political subdivision or an entity which is established pursuant to
6 title 48 and which is not regulated as a public service corporation by the
7 Arizona corporation commission under a certificate of public convenience and
8 necessity. A city or town is not a private water company.

9 (b) With respect to the Santa Cruz active management area, any entity
10 which distributes or sells water, other than stored water, withdrawn from a
11 well, except a political subdivision or an entity which is established
12 pursuant to title 48 and which is not regulated as a public service
13 corporation by the Arizona corporation commission under a certificate of
14 public convenience and necessity. A city or town is not a private water
15 company.

16 ~~31-~~ 32. "Service area" means:

17 (a) With respect to a city or town, the area of land actually being
18 served water, for a non-irrigation use, by the city or town plus:

19 (i) Additions to such area which contain an operating distribution
20 system owned by the city or town primarily for the delivery of water for a
21 non-irrigation use.

22 (ii) The service area of a city, town or private water company that
23 obtains its water from the city pursuant to a contract entered into prior to
24 the date of the designation of the active management area.

25 (b) With respect to a private water company, the area of land of the
26 private water company actually being served water, for a non-irrigation use,
27 by the private water company plus additions to such area which contain an
28 operating distribution system owned by the private water company primarily
29 for the delivery of water for a non-irrigation use.

30 ~~32-~~ 33. "Service area of an irrigation district" means:

31 (a) With respect to an irrigation district which was engaged in the
32 withdrawal, delivery and distribution of groundwater as of the date of the
33 designation of the active management area, the area of land within the
34 boundaries of the irrigation district actually being served water by the
35 irrigation district at any time during the five years preceding the date of
36 the designation of the active management area plus any areas as of the date
37 of the designation of the active management area within the boundaries of the
38 irrigation district which contain an operating system of canals, flumes,
39 ditches and other works owned or operated by the irrigation district. The
40 service area may be modified pursuant to section 45-494.01.

41 (b) With respect to an irrigation district which was not engaged in
42 the withdrawal, delivery and distribution of groundwater as of the date of
43 the designation of the active management area:

44 (i) The acres of member lands within the boundaries of the irrigation
45 district which were legally irrigated at any time from January 1, 1975

1 through January 1, 1980 for initial active management areas or during the
2 five years preceding the date of the designation of the active management
3 area for subsequent active management areas.

4 (ii) Any areas as of the date of the designation of the active
5 management area within the boundaries of the irrigation district which
6 contain an operating system of canals, flumes, ditches and other works for
7 the withdrawal, delivery and distribution of water.

8 ~~33.~~ 34. "Stored water" means water that is stored underground for the
9 purpose of recovery pursuant to a permit issued under chapter 3.1 of this
10 title.

11 ~~34.~~ 35. "Subbasin" means an area which, as nearly as known facts
12 permit as determined by the director pursuant to this chapter, may be
13 designated so as to enclose a relatively hydrologically distinct body of
14 groundwater within a groundwater basin, which shall be described horizontally
15 by surface description.

16 ~~35.~~ 36. "Subsequent active management area" means an active management
17 area established after June 12, 1980 pursuant to article 2 of this chapter.

18 ~~36.~~ 37. "Subsidence" means the settling or lowering of the surface of
19 land which results from the withdrawal of groundwater.

20 ~~37.~~ 38. "Transportation" means the movement of groundwater from the
21 point of withdrawal to the point of use.

22 ~~38.~~ 39. "Type 1 non-irrigation grandfathered right" means a
23 non-irrigation grandfathered right associated with retired irrigated land and
24 determined pursuant to section 45-463, 45-469 or 45-472.

25 ~~39.~~ 40. "Type 2 non-irrigation grandfathered right" means a
26 non-irrigation grandfathered right not associated with retired irrigated land
27 and determined pursuant to section 45-464.

28 ~~40.~~ 41. "Water district" means an active management area water
29 district that is established under title 48, chapter 28 and that has adopted
30 an ordinance or resolution to undertake water district groundwater
31 replenishment obligations as defined and used in title 48, chapter 28,
32 article 7.

33 ~~41.~~ 42. "Water district member land" means real property that
34 qualifies as water district member land of a water district as provided by
35 title 48, chapter 28.

36 ~~42.~~ 43. "Water district member service area" means the service area of
37 the city, town or private water company that qualifies as a water district
38 member service area of a water district as provided by title 48, chapter 28.

39 ~~43.~~ 44. "Well" means a man-made opening in the earth through which
40 water may be withdrawn or obtained from beneath the surface of the earth
41 except as provided in section 45-591.01.

Sec. 2. Section 45-576, Arizona Revised Statutes, is amended to read:
45-576. Certificate of assured water supply; designated cities,
towns and private water companies; exemptions;
definition

A. A person who proposes to offer subdivided lands, as defined in section 32-2101, for sale or lease in an active management area shall apply for and obtain a certificate of assured water supply from the director prior to presenting the plat for approval to the city, town or county in which the land is located, where such is required, and prior to filing with the state real estate commissioner a notice of intention to offer such lands for sale or lease, pursuant to section 32-2181, unless the subdivider has obtained a written commitment of water service for the subdivision from a city, town or private water company designated as having an assured water supply pursuant to this section.

B. A city, town or county may approve a subdivision plat only if the subdivider has obtained a certificate of assured water supply from the director or the subdivider has obtained a written commitment of water service for the subdivision from a city, town or private water company designated as having an assured water supply pursuant to this section. The city, town or county shall note on the face of the approved plat that a certificate of assured water supply has been submitted with the plat or that the subdivider has obtained a written commitment of water service for the proposed subdivision from a city, town or private water company designated as having an assured water supply pursuant to this section.

C. The state real estate commissioner may issue a public report authorizing the sale or lease of subdivided lands only on compliance with either of the following:

1. The subdivider, owner or agent has obtained a certificate of assured water supply from the director and has paid any activation fee required under section 48-3772, subsection A, paragraph 7, and any replenishment reserve fee required under section 48-3774.01, subsection A, paragraph 2.

2. If the subdivider has obtained a written commitment of water service for the lands from a city, town or private water company designated as having an assured water supply pursuant to this section and the subdivider, owner or agent has paid any activation fee required under section 48-3772, subsection A, paragraph 7.

D. The director shall designate private water companies in active management areas that have an assured water supply. If a city or town acquires a private water company that has contracted for central Arizona project water, the city or town shall assume the private water company's contract for central Arizona project water.

E. The director shall designate cities and towns in active management areas where an assured water supply exists. If a city or town has entered into a contract for central Arizona project water, the city or town is deemed

1 to continue to have an assured water supply until December 31, 1997.
 2 Commencing on January 1, 1998, the determination that the city or town has an
 3 assured water supply is subject to review by the director and the director
 4 may determine that a city or town does not have an assured water supply.

5 F. The director shall notify the mayors of all cities and towns in
 6 active management areas and the chairmen of the boards of supervisors of
 7 counties in which active management areas are located of the cities, towns
 8 and private water companies designated as having an assured water supply and
 9 any modification of that designation within thirty days of the designation or
 10 modification. If the service area of the city, town or private water company
 11 has qualified as a member service area pursuant to title 48, chapter 22,
 12 article 4, the director shall also notify the conservation district of the
 13 designation or modification and shall report the projected average annual
 14 replenishment obligation for the member service area based on the projected
 15 and committed average annual demand for water within the service area during
 16 the effective term of the designation or modification subject to any
 17 limitation in an agreement between the conservation district and the city,
 18 town or private water company. For each city, town or private water company
 19 that qualified as a member service area under title 48, chapter 22 and was
 20 designated as having an assured water supply before January 1, 2004, the
 21 director shall report to the conservation district on or before January 1,
 22 2005 the projected average annual replenishment obligation based on the
 23 projected and committed average annual demand for water within the service
 24 area during the effective term of the designation subject to any limitation
 25 in an agreement between the conservation district and the city, town or
 26 private water company. Persons proposing to offer subdivided lands served by
 27 those designated cities, towns and private water companies for sale or lease
 28 are exempt from applying for and obtaining a certificate of assured water
 29 supply.

30 G. This section does not apply in the case of the sale of lands for
 31 developments that are subject to a mineral extraction and processing permit
 32 or an industrial use permit pursuant to sections 45-514 and 45-515.

33 H. The director shall adopt rules to carry out the purposes of this
 34 section ~~no later than January 1, 1995.~~ ON OR BEFORE JANUARY 1, 2008, THE
 35 RULES SHALL:

36 1. INCLUDE PROVISIONS THAT CONSIDER THE AMOUNT OF GRAY WATER TO BE
 37 COLLECTED AND REUSED BY A GRAY WATER SYSTEM THAT MEETS THE GENERAL PERMIT
 38 REQUIREMENTS THAT ARE PRESCRIBED IN SECTION 49-245.03 OR THAT ARE ADOPTED BY
 39 RULE BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY.

40 2. PROVIDE THAT GRAY WATER BE USED AS AN OFFSET IN THE DETERMINATION
 41 OF AN ASSURED WATER SUPPLY.

42 ~~J.~~ I. If the director designates a municipal provider as having an
 43 assured water supply under this section and the designation lapses or
 44 otherwise terminates while the municipal provider's service area is a member
 45 service area of a conservation district, the municipal provider or its

1 successor shall continue to comply with the consistency with management goal
2 requirements in the rules adopted by the director under subsection H of this
3 section as if the designation was still in effect with respect to the
4 municipal provider's designation uses. When determining compliance by the
5 municipal provider or its successor with the consistency with management goal
6 requirements in the rules, the director shall consider only water delivered
7 by the municipal provider or its successor to the municipal provider's
8 designation uses. A person is the successor of a municipal provider if the
9 person commences water service to uses that were previously designation uses
10 of the municipal provider. Any groundwater delivered by the municipal
11 provider or its successor to the municipal provider's designation uses in
12 excess of the amount allowed under the consistency with management goal
13 requirements in the rules shall be considered excess groundwater for purposes
14 of title 48, chapter 22. For the purposes of this subsection, "designation
15 uses" means all water uses served by a municipal provider on the date the
16 municipal provider's designation of assured water supply lapses or otherwise
17 terminates and all recorded lots within the municipal provider's service area
18 that were not being served by the municipal provider on that date but that
19 received final plat approval from a city, town or county on or before that
20 date. Designation uses do not include industrial uses served by an
21 irrigation district under section 45-497.

22 ~~I.~~ J. For the purposes of this section, "assured water supply" means
23 all of the following:

24 1. Sufficient groundwater, surface water or effluent of adequate
25 quality will be continuously available to satisfy the water needs of the
26 proposed use for at least one hundred years. Beginning January 1 of the
27 calendar year following the year in which a groundwater replenishment
28 district is required to submit its preliminary plan pursuant to section
29 45-576.02, subsection A, paragraph 1, with respect to an applicant that is a
30 member of the district, "sufficient groundwater" for the purposes of this
31 paragraph means that the proposed groundwater withdrawals that the applicant
32 will cause over a period of one hundred years will be of adequate quality and
33 will not exceed, in combination with other withdrawals from land in the
34 replenishment district, a depth to water of one thousand feet or the depth of
35 the bottom of the aquifer, whichever is less. In determining depth to water
36 for the purposes of this paragraph, the director shall consider the
37 combination of:

38 (a) The existing rate of decline.

39 (b) The proposed withdrawals.

40 (c) The expected water requirements of all recorded lots that are not
41 yet served water and that are located in the service area of a municipal
42 provider.

43 2. The projected groundwater use is consistent with the management
44 plan and achievement of the management goal for the active management area.

1 3. The financial capability has been demonstrated to construct the
2 water facilities necessary to make the supply of water available for the
3 proposed use, including a delivery system and any storage facilities or
4 treatment works. The director may accept evidence of the construction
5 assurances required by section 9-463.01, 11-806.01 or 32-2181 to satisfy this
6 requirement.

7 Sec. 3. Section 49-201, Arizona Revised Statutes, is amended to read:

8 49-201. Definitions

9 In this chapter, unless the context otherwise requires:

10 1. "Administrator" means the administrator of the United States
11 environmental protection agency.

12 2. "Aquifer" means a geologic unit that contains sufficient saturated
13 permeable material to yield usable quantities of water to a well or spring.

14 3. "Best management practices" means those methods, measures or
15 practices to prevent or reduce discharges and includes structural and
16 nonstructural controls and operation and maintenance procedures. Best
17 management practices may be applied before, during and after discharges to
18 reduce or eliminate the introduction of pollutants into receiving waters.
19 Economic, institutional and technical factors shall be considered in
20 developing best management practices.

21 4. "CERCLA" means the comprehensive environmental response,
22 compensation, and liability act of 1980, as amended (P.L. 96-510; 94 Stat.
23 2767; 42 United States Code sections 9601 through 9657), commonly known as
24 "superfund".

25 5. "Clean closure" means implementation of all actions specified in a
26 permit, if any, as closure requirements, as well as elimination, to the
27 greatest degree practicable, of any reasonable probability of further
28 discharge from the facility and of exceeding aquifer water quality standards
29 at the applicable point of compliance. Clean closure also means postclosure
30 monitoring and maintenance are unnecessary to meet the requirements of this
31 chapter.

32 6. "Clean water act" means the federal water pollution control act
33 amendments of 1972 (P.L. 92-500; 86 Stat. 816; 33 United States Code sections
34 1251 through 1376), as amended.

35 7. "Closed facility" means:

36 (a) A facility that ceased operation before January 1, 1986, that is
37 not, on August 13, 1986, engaged in the activity for which the facility was
38 designed and that was previously operated and for which there is no intent to
39 resume operation.

40 (b) A facility that has been approved as a clean closure by the
41 director.

42 (c) A facility at which any postclosure monitoring and maintenance
43 plan, notifications and approvals required in a permit have been completed.

44 8. "Concentrated animal feeding operation" means an animal feeding
45 operation that meets the criteria prescribed in 40 Code of Federal

1 Regulations part 122, appendix B for determining a concentrated animal
2 feeding operation for purposes of 40 Code of Federal Regulations sections
3 122.23 and 122.24, appendix C.

4 9. "Department" means the department of environmental quality.

5 10. "Direct reuse" means the beneficial use of reclaimed water for
6 specific purposes authorized pursuant to section 49-203, subsection A,
7 paragraph 6.

8 11. "Director" means the director of environmental quality or the
9 director's designee.

10 12. "Discharge" means the direct or indirect addition of any pollutant
11 to the waters of the state from a facility. For purposes of the aquifer
12 protection permit program prescribed by article 3 of this chapter, discharge
13 means the addition of a pollutant from a facility either directly to an
14 aquifer or to the land surface or the vadose zone in such a manner that there
15 is a reasonable probability that the pollutant will reach an aquifer.

16 13. "Discharge impact area" means the potential areal extent of
17 pollutant migration, as projected on the land surface, as the result of a
18 discharge from a facility.

19 14. "Discharge limitation" means any restriction, prohibition,
20 limitation or criteria established by the director, through a rule, permit or
21 order, on quantities, rates, concentrations, combinations, toxicity and
22 characteristics of pollutants.

23 15. "Environment" means navigable waters, any other surface waters,
24 groundwater, drinking water supply, land surface or subsurface strata or
25 ambient air, within or bordering on this state.

26 16. "Existing facility" means a facility on which construction began
27 before August 13, 1986 and which is neither a new facility nor a closed
28 facility. For **THE** purposes of this definition, construction on a facility
29 has begun if the facility owner or operator has either:

30 (a) Begun, or caused to begin, as part of a continuous on-site
31 construction program any placement, assembly or installation of a building,
32 structure or equipment.

33 (b) Entered a binding contractual obligation to purchase a building,
34 structure or equipment which is intended to be used in its operation within a
35 reasonable time. Options to purchase or contracts which can be terminated or
36 modified without substantial loss, and contracts for feasibility engineering
37 and design studies, do not constitute a contractual obligation for purposes
38 of this definition.

39 17. "Facility" means any land, building, installation, structure,
40 equipment, device, conveyance, area, source, activity or practice from which
41 there is, or with reasonable probability may be, a discharge.

42 18. **"GRAY WATER" MEANS WASTEWATER THAT HAS BEEN COLLECTED SEPARATELY**
43 **FROM A SEWAGE FLOW THAT ORIGINATES FROM A CLOTHES WASHER OR A BATHROOM TUB,**
44 **SHOWER OR SINK BUT THAT DOES NOT INCLUDE WASTEWATER FROM A KITCHEN SINK,**
45 **DISHWASHER OR TOILET. GRAY WATER INCLUDES RAINWATER COLLECTED FROM GUTTERS.**

1 ~~18-~~ 19. "Hazardous substance" means:

2 (a) Any substance designated pursuant to sections 311(b)(2)(A) and
3 307(a) of the clean water act.

4 (b) Any element, compound, mixture, solution or substance designated
5 pursuant to section 102 of CERCLA.

6 (c) Any hazardous waste having the characteristics identified under or
7 listed pursuant to section 49-922.

8 (d) Any hazardous air pollutant listed under section 112 of the
9 federal clean air act (42 United States Code section 7412).

10 (e) Any imminently hazardous chemical substance or mixture with
11 respect to which the administrator has taken action pursuant to section 7 of
12 the federal toxic substances control act (15 United States Code section
13 2606).

14 (f) Any substance which the director, by rule, either designates as a
15 hazardous substance following the designation of the substance by the
16 administrator under the authority described in subdivisions (a) through (e)
17 of this paragraph or designates as a hazardous substance on the basis of a
18 determination that such substance represents an imminent and substantial
19 endangerment to public health.

20 ~~19-~~ 20. "Inert material" means broken concrete, asphaltic pavement,
21 manufactured asbestos-containing products, brick, rock, gravel, sand and
22 soil. Inert material also includes material that when subjected to a water
23 leach test that is designed to approximate natural infiltrating waters will
24 not leach substances in concentrations that exceed numeric aquifer water
25 quality standards established pursuant to section 49-223, including
26 overburden and wall rock that is not acid generating, taking into
27 consideration acid neutralization potential, and that has not and will not be
28 subject to mine leaching operations.

29 ~~20-~~ 21. "Major modification" means a physical change in an existing
30 facility or a change in its method of operation that results in a significant
31 increase or adverse alteration in the characteristics or volume of the
32 pollutants discharged, or the addition of a process or major piece of
33 production equipment, building or structure that is physically separated from
34 the existing operation and that causes a discharge, provided that:

35 (a) A modification to a groundwater protection permit facility as
36 defined in section 49-241.01, subsection C that would qualify for an
37 area-wide permit pursuant to section 49-243, subsection P consisting of an
38 activity or structure listed in section 49-241, subsection B shall not
39 constitute a major modification solely because of that listing.

40 (b) For a groundwater protection permit facility as defined in section
41 49-241.01, subsection C, a physical expansion that is accomplished by lateral
42 accretion or upward expansion within the pollutant management area of the
43 existing facility or group of facilities shall not constitute a major
44 modification if the accretion or expansion is accomplished through sound
45 engineering practice in a manner compatible with existing facility design,

1 taking into account safety, stability and risk of environmental release. For
2 a facility described in section 49-241.01, subsection C, paragraph 1,
3 expansion of a facility shall conform with the terms and conditions of the
4 applicable permit. For a facility described in section 49-241.01, subsection
5 C, paragraph 2, if the area of the contemplated expansion is not identified
6 in the notice of disposal, the owner or operator of the facility shall submit
7 to the director the information required by section 49-243, subsection A,
8 paragraphs 1, 2, 3 and ~~7~~ 8.

9 ~~21~~ 22. "Navigable waters" means the waters of the United States as
10 defined by section 502(7) of the clean water act (33 United States Code
11 section 1362(7)).

12 ~~22~~ 23. "New facility" means a previously closed facility that resumes
13 operation or a facility on which construction was begun after August 13, 1986
14 on a site at which no other facility is located or to totally replace the
15 process or production equipment that causes the discharge from an existing
16 facility. A major modification to an existing facility is deemed a new
17 facility to the extent that the criteria in section 49-243, subsection B,
18 paragraph 1 can be practicably applied to such modification. For ~~THE~~
19 purposes of this definition, construction on a facility has begun if the
20 facility owner or operator has either:

21 (a) Begun, or caused to begin as part of a continuous on-site
22 construction program, any placement, assembly or installation of a building,
23 structure or equipment.

24 (b) Entered a binding contractual obligation to purchase a building,
25 structure or equipment which is intended to be used in its operation within a
26 reasonable time. Options to purchase or contracts which can be terminated or
27 modified without substantial loss, and contracts for feasibility engineering
28 and design studies, do not constitute a contractual obligation for purposes
29 of this definition.

30 ~~23~~ 24. "Nonpoint source" means any conveyance which is not a point
31 source from which pollutants are or may be discharged to navigable waters.

32 ~~24~~ 25. "On-site wastewater treatment facility" means a conventional
33 septic tank system or alternative system that is installed at a site to treat
34 and dispose of wastewater of predominantly human origin that is generated at
35 that site.

36 ~~25~~ 26. "Permit" means a written authorization issued by the director
37 or prescribed by this chapter or in a rule adopted under this chapter stating
38 the conditions and restrictions governing a discharge or governing the
39 construction, operation or modification of a facility.

40 ~~26~~ 27. "Person" means an individual, employee, officer, managing
41 body, trust, firm, joint stock company, consortium, public or private
42 corporation, including a government corporation, partnership, association or
43 state, a political subdivision of this state, a commission, the United States
44 government or any federal facility, interstate body or other entity.

~~27.~~ 28. "Point source" means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft from which pollutants are or may be discharged to navigable waters. Point source does not include return flows from irrigated agriculture.

~~28.~~ 29. "Pollutant" means fluids, contaminants, toxic wastes, toxic pollutants, dredged spoil, solid waste, substances and chemicals, pesticides, herbicides, fertilizers and other agricultural chemicals, incinerator residue, sewage, garbage, sewage sludge, munitions, petroleum products, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and mining, industrial, municipal and agricultural wastes or any other liquid, solid, gaseous or hazardous substances.

~~29.~~ 30. "Postclosure monitoring and maintenance" means those activities that are conducted after closure notification and that are necessary to:

(a) Keep the facility in compliance with aquifer water quality standards at the applicable point of compliance.

(b) Verify that the closure design has eliminated discharge to the extent intended.

(c) Perform any remedial or mitigative action necessary to comply with this chapter.

(d) Meet property use restrictions.

~~30.~~ 31. "Practicably" means able to be reasonably done from the standpoint of technical practicability and, except for pollutants addressed in section 49-243, subsection I, economically achievable on an industry-wide basis.

~~31.~~ 32. "Reclaimed water" means water that has been treated or processed by a wastewater treatment plant or an on-site wastewater treatment facility.

~~32.~~ 33. "Regulated agricultural activity" means the application of nitrogen fertilizer or a concentrated animal feeding operation.

~~33.~~ 34. "Safe drinking water act" means the federal safe drinking water act, as amended (P.L. 93-523; 88 Stat. 1660; 95-190; 91 Stat. 1393).

~~34.~~ 35. "Standards" means water quality standards, pretreatment standards and toxicity standards established pursuant to this chapter.

~~35.~~ 36. "Standards of performance" means performance standards, design standards, best management practices, technologically based standards and other standards, limitations or restrictions established by the director by rule or by permit condition.

~~36.~~ 37. "Tank" means a stationary device, including a sump, that is constructed of concrete, steel, plastic, fiberglass, or other non-earthen material that provides substantial structural support, and that is designed to contain an accumulation of solid, liquid or gaseous materials.

~~37.~~ 38. "Toxic pollutant" means a substance that will cause significant adverse reactions if ingested in drinking water. Significant adverse reactions are reactions that may indicate a tendency of a substance or mixture to cause long lasting or irreversible damage to human health.

~~38.~~ 39. "Trade secret" means information to which all of the following apply:

(a) A person has taken reasonable measures to protect from disclosure and the person intends to continue to take such measures.

(b) The information is not, and has not been, reasonably obtainable without the person's consent by other persons, other than governmental bodies, by use of legitimate means, other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding.

(c) No statute specifically requires disclosure of the information to the public.

(d) The person has satisfactorily shown that disclosure of the information is likely to cause substantial harm to the business's competitive position.

~~39.~~ 40. "Vadose zone" means the zone between the ground surface and any aquifer.

~~40.~~ 41. "Waters of the state" means all waters within the jurisdiction of this state including all perennial or intermittent streams, lakes, ponds, impounding reservoirs, marshes, watercourses, waterways, wells, aquifers, springs, irrigation systems, drainage systems and other bodies or accumulations of surface, underground, natural, artificial, public or private water situated wholly or partly in or bordering on the state.

~~41.~~ 42. "Well" means a bored, drilled or driven shaft, pit or hole whose depth is greater than its largest surface dimension.

Sec. 4. Section 49-243, Arizona Revised Statutes, is amended to read:

~~49-243.~~ Information and criteria for issuing individual permit: definition

A. The director shall consider, and the applicant for an individual permit may be required to furnish with the application, the following information:

1. The design of the discharge facility. When formal as-built submittals are unavailable, the applicant shall provide sufficient documentation to allow evaluation of those elements of the facility affecting discharge pursuant to the demonstration required in subsection B, paragraph 1 of this section.

2. A description of how the facility will be operated.

3. Existing and proposed pollutant control measures.

4. A hydrogeologic study defining and characterizing the discharge impact area, including the vadose zone.

5. The use of water from aquifers in the discharge impact area.

6. The existing quality of the water in the aquifers in the discharge impact area.

1 7. FOR THE PURPOSES OF DETERMINING WASTEWATER TREATMENT CAPACITY AND
2 LEVEL OF USE, THE AMOUNT OF GRAY WATER COLLECTED AND REUSED IN THE AREA
3 SERVED BY THE FACILITY.

4 ~~7.~~ 8. The characteristics of the pollutants discharged by the
5 facility.

6 ~~8.~~ 9. Closure strategy.

7 ~~9.~~ 10. Any other relevant federal or state permits issued to the
8 applicant.

9 ~~10.~~ 11. Any other relevant information the director may require.

10 B. The director shall issue a permit to a person for a facility other
11 than water storage at a storage facility pursuant to title 45, chapter 3.1 if
12 the person demonstrates that either paragraphs 1 and 2 or paragraphs 1 and 3
13 of this subsection will be met:

14 1. That the facility will be so designed, constructed and operated as
15 to ensure the greatest degree of discharge reduction achievable through
16 application of the best available demonstrated control technology, processes,
17 operating methods or other alternatives, including, where practicable, a
18 technology permitting no discharge of pollutants. In determining best
19 available demonstrated control technology, processes, operating methods or
20 other alternatives, the director shall take into account any treatment
21 process contributing to the discharge, site specific hydrologic and geologic
22 characteristics and other environmental factors, the opportunity for water
23 conservation or augmentation and economic impacts of the use of alternative
24 technologies, processes or operating methods on an industry-wide basis. A
25 discharge reduction to an aquifer achievable solely by means of site specific
26 characteristics does not, in itself, constitute compliance with this
27 paragraph. The requirements of this paragraph for wetlands designed and
28 constructed to treat municipal and domestic wastewater for underground
29 storage pursuant to section 49-241, subsection B, paragraph 11 may be met by
30 including seepage through the bottom of the facility if it is demonstrated
31 that site characteristics can act to achieve performance levels established
32 as the best available demonstrated control technology by the director. In
33 addition, the director shall consider the following factors for existing
34 facilities:

35 (a) Toxicity, concentrations and quantities of discharge likely to
36 reach an aquifer from various types of control technologies.

37 (b) The total costs of the application of the technology in relation
38 to the discharge reduction to be achieved from such application.

39 (c) The age of equipment and facilities involved.

40 (d) The industrial and control process employed.

41 (e) The engineering aspects of the application of various types of
42 control techniques.

43 (f) Process changes.

44 (g) Non-water quality environmental impacts.

1 (h) The extent to which water available for beneficial uses will be
2 conserved by a particular type of control technology.

3 2. That pollutants discharged will in no event cause or contribute to
4 a violation of aquifer water quality standards at the applicable point of
5 compliance for the facility.

6 3. That no pollutants discharged will further degrade at the
7 applicable point of compliance the quality of any aquifer that at the time of
8 the issuance of the permit violates the aquifer quality standard for that
9 pollutant.

10 C. An applicant shall satisfy the requirements of subsection B,
11 paragraph 1 of this section either by making a demonstration that the
12 facility will meet the criteria of that paragraph or by agreeing to utilize
13 the appropriate presumptive controls adopted by the director pursuant to
14 section 49-243.01, subsection A.

15 D. In assessing technology, processes, operating methods and other
16 alternatives for THE purposes of this section, "practicable" means able to be
17 reasonably done from the standpoint of technical practicality and, except for
18 pollutants addressed in subsection I of this section, economically achievable
19 on an industry-wide basis.

20 E. The determination of economic impact on an industry-wide basis for
21 purposes of subsection B, paragraph 1 of this section shall take into account
22 differences in industry sectors, the type and size of the operation and the
23 reasonableness of applying controls in an arid or semiarid setting.

24 F. Control measures designed to further reduce discharge may not be
25 required if the director determines that site specific conditions, in
26 conjunction with technology, processes, operating methods or other
27 alternatives are sufficient to meet the requirements of subsection B,
28 paragraph 1 of this section.

29 G. A discharging facility at an open pit mining operation shall be
30 deemed to satisfy the requirements of subsection B, paragraph 1 of this
31 section if the director determines that both of the following conditions are
32 satisfied:

33 1. The mine pit creates a passive containment that is sufficient to
34 capture the pollutants discharged and that is hydrologically isolated to the
35 extent that it does not allow pollutant migration from the capture zone. For
36 THE purposes of this paragraph, "passive containment" means natural or
37 engineered topographical, geological or hydrological control measures that
38 can operate without continuous maintenance. Monitoring and inspections to
39 confirm performance of the passive containment do not constitute maintenance.

40 2. The discharging facility employs additional processes, operating
41 methods or other alternatives to minimize discharge.

42 H. The director shall issue a permit to a person for water storage at
43 a storage facility proposed under title 45, chapter 3.1 if the person
44 demonstrates that the facility will be so designed, constructed and operated
45 as to ensure that the project will not cause or contribute to the violation

1 of any standard adopted pursuant to section 49-223 at the applicable point of
2 compliance for the facility.

3 I. With respect to the following pollutants, the permit applicant for
4 a new facility must meet the criteria of subsection B, paragraph 1 of this
5 section to limit discharges to the maximum extent practicable regardless of
6 cost:

7 1. Any organic substance listed by the secretary of the department of
8 health and human services pursuant to 42 United States Code section 241
9 (b)(4), as known to be carcinogens or reasonably anticipated to be
10 carcinogens.

11 2. Any organic substance listed in 40 Code of Federal Regulations
12 section 261.33(e), regardless of whether the substance is a waste subject to
13 regulation under the resource conservation recovery act (P.L. 94-580; 90
14 Stat. 2795).

15 3. Any organic toxic pollutant that the director lists by rule after
16 determining that minute amounts of that pollutant in drinking water will
17 present a substantial short-term or long-term human health threat.

18 J. The director ~~may~~, by rule, MAY prescribe requirements for issuing a
19 single permit applicable to all similar facilities under common ownership and
20 located in a contiguous geographic area in lieu of an individual permit for
21 each facility.

22 K. The director shall consider and may prescribe in the permit the
23 following terms and conditions as necessary to ensure compliance with this
24 article:

25 1. Monitoring requirements.

26 2. Record keeping and reporting requirements.

27 3. Contingency plan requirements.

28 4. Discharge limitations.

29 5. Compliance schedule requirements.

30 6. Closure requirements and, for a facility that cannot achieve clean
31 closure, postclosure monitoring and maintenance requirements.

32 7. Alert levels which, when exceeded, may require adjustments of
33 permit conditions or appropriate actions as are required by the contingency
34 plans.

35 8. Such other terms and conditions as the director deems necessary to
36 ensure compliance with this article.

37 L. The director may include in an aquifer protection permit for an
38 existing facility the requirement that the owner or operator of the facility
39 undertake a remedial action, as defined in section 49-281, to prevent,
40 minimize or mitigate damage to the public health or welfare or to the waters
41 of the state resulting from a discharge that occurred before August 13, 1986,
42 if the following conditions are met:

43 1. The selection of remedial action including the level and extent of
44 cleanup was determined according to the criteria in section 49-282.06, and
45 the rules adopted pursuant to that section.

1 2. The pollutant that was discharged constituted a hazardous
2 substance.

3 M. The director may include in an aquifer protection permit as a
4 condition the mitigation measures described in an order issued under section
5 49-286.

6 N. The director may deny a permit for a facility if ~~he~~ THE DIRECTOR
7 determines that the applicant is incapable of fully carrying out the terms
8 and conditions of the permit, including any conditions that require
9 monitoring or installing and maintaining discharge control measures. The
10 director may require the applicant to furnish information, such as past
11 performance, including compliance with or violations of similar laws or
12 rules, and technical and financial competence, relevant to its capability to
13 comply with the permit terms and conditions. For the purposes of evaluating
14 an applicant's financial competence for closure, the director may consider a
15 closure strategy and cost estimate rather than a detailed closure plan. A
16 demonstration of financial responsibility made for a facility as prescribed
17 by section 49-770 shall suffice, in whole or in part, for any demonstration
18 of financial responsibility prescribed by this section. A demonstration of
19 financial assurance or competence required under this section or section
20 49-770 for a facility shall not be required prior to completion of
21 construction but shall be required before the department issues approval to
22 operate. Financial information required to be supplied under this subsection
23 is confidential.

24 O. The director shall require an applicant for an individual permit to
25 submit evidence that the discharging facility complies with applicable
26 municipal or county zoning ordinances and regulations. The director shall
27 not issue the permit unless it appears from the evidence submitted by the
28 applicant that the facility complies with the applicable zoning ordinances
29 and regulations.

30 P. The director may issue a single area-wide permit applicable to
31 facilities under common ownership and located in a contiguous geographic area
32 in lieu of an individual permit for each facility. In issuing an area-wide
33 permit, the demonstration required under subsection B, paragraphs 2 and 3 of
34 this section may be considered collectively for all facilities included in
35 the permit. The director may evaluate discharge reduction collectively for
36 existing facilities in the pollutant management area by considering any one
37 or all of the factors set forth in subsection B, paragraph 1, ~~subdivisions~~
38 ~~(a) through (h)~~ of this section. The director may consolidate those permit
39 conditions listed in subsection K of this section that have general
40 applicability to the facilities included in the area-wide permit. An
41 area-wide permit shall specify all of the following:

42 1. A description of the pollutant management area and point or points
43 of compliance.

2. Those facilities that have been evaluated individually for meeting the criteria in subsection B, paragraph 1 of this section and are included in the area-wide permit.

3. For multiple facilities within the pollutant management area that are substantially similar in nature and, considered alone, would have a small discharge impact area compared to other facilities in the area, narrative permit conditions may be used to define the best available demonstrated control technology, processes, operating methods or other alternatives consistent with subsection B, paragraph 1 of this section replacing the need for an individual technical review.

4. A compliance schedule for submittal and evaluation of information regarding design and discharge for existing facilities within the pollutant management area that, because of the small size, quantity or quality of discharge, or physical location with regard to the point or points of compliance, the director has determined that review for the purposes of subsection B, paragraph 1 of this section shall be conducted in the future. In determining the requirements and length of a compliance schedule for an area-wide permit, the director shall consider the character and impact of the discharge, the nature of the activities necessary to prepare appropriate technical submittals, the number of persons potentially affected by the discharge, the current state of treatment technology, and the age of the facility.

Q. The director may expedite processing of an aquifer protection permit application by a permit applicant who proposes a new facility to discharge liquids that do not contain any pollutant in a concentration that exceeds a numeric aquifer water quality standard. The director shall not require the applicant to complete a hydrogeologic study in order to obtain the permit unless the permit applicant is relying on site specific characteristics to meet the requirements of subsection B, paragraph 1 of this section or unless the study is necessary to demonstrate compliance with narrative aquifer water quality standards. Applications made pursuant to this subsection shall have precedence and be considered by the department before all other aquifer protection permit applications.

Sec. 5. Title 49, chapter 2, article 3, Arizona Revised Statutes, is amended by adding section 49-245.03, to read:

49-245.03. General permit for private residential direct reuse of gray water

A. A GENERAL PERMIT IS ISSUED FOR PRIVATE RESIDENTIAL DIRECT REUSE OF GRAY WATER FOR A FLOW OF LESS THAN FOUR HUNDRED GALLONS PER DAY IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

1. HUMAN CONTACT WITH GRAY WATER AND HUMAN CONTACT WITH SOIL IRRIGATED BY GRAY WATER IS AVOIDED.

2. GRAY WATER ORIGINATING FROM THE RESIDENCE IS USED AND CONTAINED WITHIN THE PROPERTY BOUNDARY FOR HOUSEHOLD GARDENING, COMPOSTING, LAWN WATERING OR LANDSCAPE IRRIGATION.

1 3. SURFACE APPLICATION OF GRAY WATER IS NOT USED FOR IRRIGATION OF
2 FOOD PLANTS, EXCEPT FOR FRUIT AND NUT TREES.

3 4. THE GRAY WATER DOES NOT CONTAIN HAZARDOUS CHEMICALS DERIVED FROM
4 ACTIVITIES SUCH AS CLEANING CAR PARTS, WASHING GREASY OR OILY RAGS OR
5 DISPOSING OF WASTE SOLUTIONS FROM HOME PHOTO LABS OR SIMILAR HOBBYIST OR HOME
6 OCCUPATIONAL ACTIVITIES.

7 5. THE APPLICATION OF GRAY WATER IS MANAGED TO MINIMIZE STANDING WATER
8 ON THE SURFACE.

9 6. THE GRAY WATER SYSTEM IS CONSTRUCTED SO THAT IF BLOCKAGE, PLUGGING
10 OR BACKUP OF THE SYSTEM OCCURS, GRAY WATER MAY BE DIRECTED INTO THE SEWAGE
11 COLLECTION SYSTEM OR ON-SITE WASTEWATER TREATMENT AND DISPOSAL SYSTEM, AS
12 APPLICABLE. THE GRAY WATER SYSTEM MAY INCLUDE A MEANS OF FILTRATION TO REDUCE
13 PLUGGING AND EXTEND SYSTEM LIFETIME.

14 7. ANY GRAY WATER STORAGE TANK IS COVERED TO RESTRICT ACCESS AND TO
15 ELIMINATE HABITAT FOR MOSQUITOES OR OTHER VECTORS.

16 8. THE GRAY WATER SYSTEM IS SITED OUTSIDE OF A FLOODWAY.

17 9. THE GRAY WATER SYSTEM IS OPERATED TO MAINTAIN A MINIMUM VERTICAL
18 SEPARATION DISTANCE OF AT LEAST FIVE FEET FROM THE APPLICATION POINT OF THE
19 GRAY WATER TO THE TOP OF THE SEASONALLY HIGH GROUNDWATER TABLE.

20 10. FOR RESIDENCES USING AN ON-SITE WASTEWATER TREATMENT FACILITY FOR
21 BLACK WATER TREATMENT AND DISPOSAL, THE USE OF A GRAY WATER SYSTEM DOES NOT
22 CHANGE THE DESIGN, CAPACITY OR RESERVE AREA REQUIREMENTS FOR THE ON-SITE
23 WASTEWATER TREATMENT FACILITY AT THE RESIDENCE AND ENSURES THAT THE FACILITY
24 CAN HANDLE THE COMBINED BLACK WATER AND GRAY WATER FLOW IF THE GRAY WATER
25 SYSTEM FAILS OR IS NOT FULLY USED.

26 11. ANY PRESSURE PIPING USED IN A GRAY WATER SYSTEM THAT MAY BE
27 SUSCEPTIBLE TO CROSS CONNECTION WITH A POTABLE WATER SYSTEM CLEARLY INDICATES
28 THAT THE PIPING DOES NOT CARRY POTABLE WATER.

29 12. GRAY WATER APPLIED BY SURFACE IRRIGATION DOES NOT CONTAIN WATER
30 USED TO WASH DIAPERS OR SIMILARLY SOILED OR INFECTIOUS GARMENTS UNLESS THE
31 GRAY WATER IS DISINFECTED BEFORE IRRIGATION.

32 13. SURFACE IRRIGATION BY GRAY WATER IS ONLY BY FLOOD OR DRIP
33 IRRIGATION.

34 B. THE FOLLOWING TWO USES FOR GRAY WATER ARE PROHIBITED UNDER THE
35 GENERAL PERMIT AUTHORIZED BY THIS SECTION:

36 1. GRAY WATER USE FOR PURPOSES OTHER THAN SURFACE AND SUBSURFACE
37 IRRIGATION.

38 2. SPRAY IRRIGATION.

39 C. IF THE DIRECTOR DETERMINES THAT THE PERMITTEE FAILS TO COMPLY WITH
40 GENERAL PERMIT REQUIREMENTS OF THIS SECTION, THE DIRECTOR MAY REVOKE THE
41 GENERAL PERMIT AUTHORIZED BY THIS SECTION. BEFORE REVOKING THE GENERAL
42 PERMIT, THE DIRECTOR SHALL PROVIDE NOTICE TO THE PERMITTEE BY CERTIFIED MAIL
43 OF THE DEPARTMENT'S INTENT TO REVOKE THE GENERAL PERMIT. THE NOTICE OF
44 INTENT TO REVOKE THE GENERAL PERMIT SHALL PROVIDE THE PERMITTEE A REASONABLE
45 OPPORTUNITY TO CORRECT ANY NONCOMPLIANCE AND SPECIFY A TIME WITHIN WHICH THE

1 PERMITTEE SHALL ACHIEVE COMPLIANCE. IF THE PERMITTEE FAILS TO CORRECT THE
2 NONCOMPLIANCE WITHIN THE SPECIFIED TIME, THE DIRECTOR SHALL NOTIFY THE
3 PERMITTEE BY CERTIFIED MAIL OF THE DIRECTOR'S DECISION TO REVOKE THE GENERAL
4 PERMIT AUTHORIZED BY THIS SECTION.

5 D. A CITY, TOWN OR COUNTY BY RULE OR ORDINANCE MAY NOT FURTHER LIMIT
6 THE USE OF GRAY WATER.

7 Sec. 6. Title 49, chapter 2, article 10, Arizona Revised Statutes, is
8 amended by adding section 49-362, to read:

9 49-362. Calculation of wastewater treatment capacity and level
10 or use; gray water; definition

11 A. WHEN CALCULATING THE WASTEWATER TREATMENT CAPACITY AND LEVEL OF USE
12 NEEDED BY A SUBDIVISION, THE DEPARTMENT SHALL ALLOW THE OPERATOR OF A PUBLIC
13 SEWAGE OR WASTEWATER SYSTEM TO REDUCE THE CAPACITY NEEDED AND LEVEL OF USE BY
14 THE ESTIMATED AMOUNT OF GRAY WATER TO BE COLLECTED AND REUSED IN THE
15 SUBDIVISION THAT MEETS THE GENERAL PERMIT REQUIREMENTS THAT ARE PRESCRIBED IN
16 SECTION 49-245.03 OR THAT ARE ADOPTED BY RULE BY THE DEPARTMENT.

17 B. FOR THE PURPOSES OF THIS SECTION, "SUBDIVISION" HAS THE SAME
18 MEANING PRESCRIBED IN SECTION 32-2101.

19 Sec. 7. Section 49-701, Arizona Revised Statutes, is amended to read:

20 49-701. Definitions

21 In this chapter, unless the context otherwise requires:

22 1. "Administratively complete plan" means an application for a solid
23 waste facility plan approval that the department has determined contains each
24 of the components required by statute or rule but that has not undergone
25 technical review or public notice by the department.

26 2. "Administrator" means the administrator of the United States
27 environmental protection agency.

28 3. "Closed solid waste facility" means any of the following:

29 (a) A solid waste facility that ceases storing, treating, processing
30 or receiving for disposal solid waste before the effective date of design and
31 operation rules for that type of facility adopted pursuant to section 49-761.

32 (b) A public solid waste landfill that meets any of the following
33 criteria:

34 (i) Ceased receiving solid waste prior to July 1, 1983.

35 (ii) Ceased receiving solid waste and received at least two feet of
36 cover material prior to January 1, 1986.

37 (iii) Received approval for closure from the department.

38 (c) A public composting plant or a public incinerating facility that
39 closed in accordance with an approved plan.

40 4. "Conditionally exempt small quantity generator waste" means
41 hazardous waste in quantities as defined by rules adopted pursuant to section
42 49-922.

43 5. "Construction debris" means solid waste derived from the
44 construction, repair or remodeling of buildings or other structures.

- 1 6. "County" means:
- 2 (a) The board of supervisors in the context of the exercise of powers
- 3 or duties.
- 4 (b) The unincorporated areas in the context of area of jurisdiction.
- 5 7. "Demolition debris" means solid waste derived from the demolition
- 6 of buildings or other structures.
- 7 8. "Discharge" has the same meaning prescribed in section 49-201.
- 8 9. "Existing solid waste facility" means a solid waste facility that
- 9 begins construction or is in operation on the effective date of the design
- 10 and operation rules adopted by the director pursuant to section 49-761 for
- 11 that type of solid waste facility.
- 12 10. "Facility plan" means any design or operating plan for a solid
- 13 waste facility or group of solid waste facilities.
- 14 11. "40 C.F.R. part 257" means 40 Code of Federal Regulations part 257
- 15 in effect on May 1, 2004.
- 16 12. "40 C.F.R. part 258" means 40 Code of Federal Regulations part 258
- 17 in effect on May 1, 2004.
- 18 13. "Household hazardous waste" means solid waste as described in 40
- 19 Code of Federal Regulations section 261.4(b)(1) as incorporated by reference
- 20 in the rules adopted pursuant to chapter 5 of this title.
- 21 14. "Household waste" means any solid waste including garbage, rubbish
- 22 and sanitary waste from septic tanks that is generated from households
- 23 including single and multiple family residences, hotels and motels,
- 24 bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and
- 25 day use recreation areas, not including construction debris, landscaping
- 26 rubble or demolition debris.
- 27 15. "Inert material":
- 28 (a) Means material that satisfies all of the following conditions:
- 29 (i) Is not flammable.
- 30 (ii) Will not decompose.
- 31 (iii) Will not leach substances in concentrations that exceed
- 32 applicable aquifer water quality standards prescribed by section 49-201,
- 33 paragraph ~~19~~ 20 when subjected to a water leach test that is designed to
- 34 approximate natural infiltrating waters.
- 35 (b) Includes concrete, asphaltic pavement, brick, rock, gravel, sand,
- 36 soil and metal, if used as reinforcement in concrete, but does not include
- 37 special waste, hazardous waste, glass or other metal.
- 38 16. "Land disposal" means placement of solid waste in or on land.
- 39 17. "Landscaping rubble" means material that is derived from
- 40 landscaping or reclamation activities and that may contain inert material and
- 41 no more than ten per cent by volume of vegetative waste.
- 42 18. "Management agency" means any person responsible for the day-to-day
- 43 operation, maintenance and management of a particular public facility or
- 44 group of public facilities.

1 19. "Medical waste" means any solid waste which is generated in the
2 diagnosis, treatment or immunization of a human being or animal or in any
3 research relating to that diagnosis, treatment or immunization, or in the
4 production or testing of biologicals, and includes discarded drugs but does
5 not include hazardous waste as defined in section 49-921 other than
6 conditionally exempt small quantity generator waste.

7 20. "Municipal solid waste landfill" means any solid waste landfill
8 that accepts household waste, household hazardous waste or conditionally
9 exempt small quantity generator waste.

10 21. "New solid waste facility" means a solid waste facility that begins
11 construction or operation after the effective date of design and operating
12 rules that are adopted pursuant to section 49-761 for that type of solid
13 waste facility.

14 22. "On site" means the same or geographically contiguous property that
15 may be divided by public or private right-of-way if the entrance and exit
16 between the properties are at a crossroads intersection and access is by
17 crossing the right-of-way and not by traveling along the right-of-way.
18 Noncontiguous properties that are owned by the same person and connected by a
19 right-of-way that is controlled by that person and to which the public does
20 not have access are deemed on site property. Noncontiguous properties that
21 are owned or operated by the same person regardless of right-of-way control
22 are also deemed on site property.

23 23. "Person" means any public or private corporation, company,
24 partnership, firm, association or society of persons, the federal government
25 and any of its departments or agencies, this state or any of its agencies,
26 departments, political subdivisions, counties, towns or municipal
27 corporations, as well as a natural person.

28 24. "Process" or "processing" means the reduction, separation,
29 recovery, conversion or recycling of solid waste.

30 25. "Public solid waste facility" means a transfer facility and any
31 site owned, operated or utilized by any person for the storage, processing,
32 treatment or disposal of solid waste that is not generated on site.

33 26. "Recycling facility" means a solid waste facility that is owned,
34 operated or used for the storage, treatment or processing of recyclable solid
35 waste and that handles wastes that have a significant adverse effect on the
36 environment.

37 27. "Salvaging" means the removal of solid waste from a solid waste
38 facility with the permission and in accordance with rules or ordinances of
39 the management agency for purposes of productive reuse.

40 28. "Scavenging" means the unauthorized removal of solid waste from a
41 solid waste facility.

42 29. "Solid waste facility" means a transfer facility and any site
43 owned, operated or utilized by any person for the storage, processing,
44 treatment or disposal of solid waste, conditionally exempt small quantity

1 generator waste or household hazardous waste but does not include the
2 following:

3 (a) A site at which less than one ton of solid waste that is not
4 household waste, household hazardous waste, conditionally exempt small
5 quantity generator waste, medical waste or special waste and that was
6 generated on site is stored, processed, treated or disposed in compliance
7 with section 49-762.07, subsection F.

8 (b) A site at which solid waste that was generated on site is stored
9 for ninety days or less.

10 (c) A site at which nonputrescible solid waste that was generated on
11 site in amounts of less than one thousand kilograms per month per type of
12 nonputrescible solid waste is stored and contained for one hundred eighty
13 days or less.

14 (d) A site that stores, treats or processes paper, glass, wood,
15 cardboard, household textiles, scrap metal, plastic, vegetative waste,
16 aluminum, steel or other recyclable material and that is not a waste tire
17 facility, a transfer facility or a recycling facility.

18 (e) A site where sludge from a wastewater treatment facility is
19 applied to the land as a fertilizer or beneficial soil amendment in
20 accordance with sludge application requirements.

21 (f) A closed solid waste facility.

22 (g) A solid waste landfill that is performing or has completed
23 postclosure care before July 1, 1996 in accordance with an approved
24 postclosure plan.

25 (h) A closed solid waste landfill performing a onetime removal of
26 solid waste from the closed solid waste landfill, if the operator provides a
27 written notice that describes the removal project to the department within
28 thirty days after completion of the removal project.

29 (i) A site where solid waste generated in street sweeping activities
30 is stored, processed or treated prior to disposal at a solid waste facility
31 authorized under this chapter.

32 (j) A site where solid waste generated at either a drinking water
33 treatment facility or a wastewater treatment facility is stored, processed,
34 or treated on site prior to disposal at a solid waste facility authorized
35 under this chapter, and any discharge is regulated pursuant to chapter 2,
36 article 3 of this title.

37 (k) A closed solid waste landfill where development activities occur
38 on the property or where excavation or removal of solid waste is performed
39 for maintenance and repair provided the following conditions are met:

40 (i) When the project is completed there will not be an increase in
41 leachate that would result in a discharge.

42 (ii) When the project is completed the concentration of methane gas
43 will not exceed twenty-five per cent of the lower explosive limit in on-site
44 structures, or the concentration of methane gas will not exceed the lower
45 explosive limit at the property line.

1 (iii) Protection has been provided to prevent remaining waste from
2 causing any vector, odor, litter or other environmental nuisance.

3 (iv) The operator provides a notice to the department containing the
4 information required by section 49-762.07, subsection A, paragraphs 1, 2 and
5 5 and a brief description of the project.

6 (l) Agricultural on-site disposal as provided in section 49-766.

7 (m) The use, storage, treatment or disposal of by-products of
8 regulated agricultural activities as defined in section 49-201 and that are
9 subject to best management practices pursuant to section 49-247 or
10 by-products of livestock, range livestock and poultry as defined in section
11 3-1201, pesticide containers that are regulated pursuant to title 3, chapter
12 2, article 6 or other agricultural crop residues.

13 (n) Household hazardous waste collection events held at a temporary
14 site for not more than six days in any calendar quarter.

15 (o) Wastewater treatment facilities as defined in section 49-1201.

16 (p) An on-site single family household waste composting facility.

17 (q) A site at which five hundred or fewer waste tires are stored.

18 (r) A site at which mining industry off-road waste tires are stored or
19 are disposed of as prescribed by rules in effect on February 1, 1996, until
20 the director by rule determines that on-site recycling methods exist that are
21 technically feasible and economically practical.

22 (s) A site at which underground piping, conduit, pipe covering or
23 similar structures are abandoned in place in accordance with applicable state
24 and federal laws.

25 30. "Solid waste landfill" means a facility, area of land or excavation
26 in which solid wastes are placed for permanent disposal. Solid waste
27 landfill does not include a land application unit, surface impoundment,
28 injection well, compost pile or waste pile or an area containing ash from the
29 on-site combustion of coal that does not contain household waste, household
30 hazardous waste or conditionally exempt small quantity generator waste.

31 31. "Solid waste management" means the systematic administration of
32 activities which provide for the collection, source separation, storage,
33 transportation, transfer, processing, treatment or disposal of solid waste in
34 a manner that protects public health and safety and the environment and
35 prevents and abates environmental nuisances.

36 32. "Solid waste management plan" means the plan which is adopted
37 pursuant to section 49-721 and which provides guidelines for the collection,
38 source separation, storage, transportation, processing, treatment,
39 reclamation and disposal of solid waste in a manner that protects public
40 health and safety and the environment and prevents and abates environmental
41 nuisances.

42 33. "Storage" means the holding of solid waste.

43 34. "Transfer facility" means a site that is owned, operated or used by
44 any person for the rehandling or storage for ninety days or less of solid
45 waste that was generated off site for the primary purpose of transporting

1 that solid waste. Transfer facility includes those facilities that include
2 significant solid waste transfer activities that warrant the facility's
3 regulation as a transfer facility.

4 35. "Treatment" means any method, technique or process used to change
5 the physical, chemical or biological character of solid waste so as to render
6 that waste safer for transport, amenable for processing, amenable for storage
7 or reduced in volume.

8 36. "Vegetative waste" means waste derived from plants, including tree
9 limbs and branches, stumps, grass clippings and other waste plant
10 material. Vegetative waste does not include processed lumber, paper,
11 cardboard and other manufactured products that are derived from plant
12 material.

13 37. "Waste pile" means any noncontainerized accumulation of solid,
14 nonflowing waste that is used for treatment or storage.

15 38. "Waste tire" does not include tires used for agricultural purposes
16 as bumpers on agricultural equipment or as ballast to maintain covers at an
17 agricultural site, or any tire disposed of using any of the methods in
18 section 44-1304, subsection D, paragraphs 1, 2, 3, 5 through 8 and 11 and
19 means any of the following:

20 (a) A tire that is no longer suitable for its original intended
21 purpose because of wear, damage or defect.

22 (b) A tire that is removed from a motor vehicle and is retained for
23 further use.

24 (c) A tire that has been chopped or shredded.

25 39. "Waste tire facility" means a solid waste facility at which five
26 thousand or more waste tires are stored outdoors on any day.